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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/785,459

02/23/2004

Robert Peterson

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31740 7590 01/11/2007
THOMAS LOOP
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SEATTLE, WA 98111

EXAMINER

HUNTER, ALVIN A

ART UNIT

PAPER NUMBER

3711

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/11/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary	Application No. 10/785,459	Applicant(s) PETERSON, ROBERT	
	Examiner Alvin A. Hunter	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21 and 22 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 21 and 22 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>11/02/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freitag et al. (USPN 6479560) in view of Puckett et al. (USPN 4836552).

In regards to claim 21, Freitag et al. discloses a foaming composition comprising an ethylene-vinyl acetate copolymer, a thermoplastic elastomer, and a blowing agent (See Columns 5, lines 25 through 41; and Column 6, lines 6 through 54). Freitag et al. discloses that the foam composition may be used for a number of purposes but does not explicitly state that the foam may be used within a golf ball (See Summary of the Invention). Puckett et al. disclose a golf ball in which is foamed for reducing flight (See Abstract). One having ordinary skill in the art would have found it obvious to have the composition molding into a one-piece golf ball, or for that matter, any similar ball-type article, as taught by Puckett et al., in order to produce a golf ball with reduced flight distance. It is a given that the combination of Freitag et al. and Puckett et al. has a coefficient of restitution but does not explicitly disclose the value. Applicant does not state why the value of coefficient of restitution is critical in order to attain the invention. Further, Freitag et al. discloses the composition claimed by the applicant. One having ordinary skill in the art would have found it obvious to find the optimum range through

routine experimentation. The combination of Freitag et al. and Puckett et al. teaches reduced flight distance and therefore, would perform equally as well because of such.

In regards to claim 22, Freitag et al. discloses the thermoplastic elastomer is a styrene tri-block copolymer (See Column 6, lines 32 through 54).

Response to Arguments

Applicant's arguments filed 10/07/06 have been fully considered but they are not persuasive. Applicant argues that Puckett et al. does not disclose the coefficient of restitution (COR) claimed by the applicant. The applicant has clearly ignored the statements of the rejection asking why the COR was critical to attain the invention. In response to the previous office action, applicant does not give a reason as to why the COR value is important. Further, Freitag et al. discloses essentially the same materials used by the applicant meaning if the materials are essentially the same than the COR would be a natural result from the use of the materials. Puckett et al. was merely used to show a foamed material in spherical form. It is not uncommon to foam a material into a spherical shape. For this reason, the above rejection has been furnished.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kawakami et al. (JP 62-0833127) discloses a unitary ball being foamed from ethylene vinyl acetate and a blowing agent.

Dillon, Jr. (USPN 3069170) discloses a ball being foamed from an ethylene copolymer and a blowing agent.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin A. Hunter whose telephone number is 571-272-4411. The examiner can normally be reached on Monday through Friday from 7:30AM to 4:00PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim, can be reached at 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alvin A. Hunter, Jr.



EUGENE KIM
SUPERVISORY PATENT EXAMINER